

LEGISLATURE OF NEBRASKA
 ONE HUNDRED FIRST LEGISLATURE
 FIRST SESSION
LEGISLATIVE BILL 31
 FINAL READING

Introduced by Pahls, 31.

Read first time January 8, 2009

Committee: Banking, Commerce and Insurance

A BILL

1 FOR AN ACT relating to the Public Accountancy Act; to amend
 2 sections 1-105, 1-106, 1-109, 1-110, 1-111, 1-114,
 3 1-116, 1-118, 1-119, 1-120, 1-122, 1-126, 1-134, 1-135,
 4 1-136, 1-136.01, 1-136.02, 1-136.04, 1-137, 1-138, 1-148,
 5 1-151, 1-152, 1-155, 1-156, 1-157, 1-158, 1-159, 1-161,
 6 1-162, 1-162.01, 1-164.01, 1-164.02, 1-167, 1-168, 1-170,
 7 and 1-171, Reissue Revised Statutes of Nebraska; to
 8 define and redefine terms; to rename a fund; to change
 9 certificate and permit requirements; to provide for
 10 practice privileges; to eliminate obsolete provisions;
 11 to harmonize provisions; to provide an operative date;
 12 to repeal the original sections; and to outright repeal
 13 sections 1-123, 1-125, 1-133, 1-136.03, 1-153, 1-154, and

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LB 31

1 1-163, Reissue Revised Statutes of Nebraska.

2 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 1-105, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 1-105 Sections 1-105 to 1-171 and sections 12, 13, and
4 23 of this act shall be known and may be cited as the Public
5 Accountancy Act.

6 Sec. 2. Section 1-106, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 1-106 For purposes of the Public Accountancy Act, unless
9 the context otherwise requires:

10 (1) Board means the Nebraska State Board of Public
11 Accountancy;

12 (2) Certificate means a certificate issued under sections
13 1-114 to 1-124;

14 (3) Firm means a proprietorship, partnership,
15 corporation, or limited liability company engaged in the
16 practice of public accountancy in this state entitled to register
17 with the board;

18 (4) Partnership includes, but is not limited to, a
19 limited liability partnership;

20 (5) Permit means a permit to engage in the practice of
21 public accountancy in this state issued under section 1-136; ~~and~~

22 (6) Practice privilege means the privilege of an
23 accountant to practice public accountancy or hold himself or
24 herself out as a certified public accountant in this state in
25 accordance with section 12 of this act;

1 ~~(6)~~ (7) State means a state of the United States, the
2 District of Columbia, the Commonwealth of Puerto Rico, or any
3 territory or insular possession subject to the jurisdiction of the
4 United States; and-

5 (8) Temporary practice privilege means the privilege of
6 a foreign accountant to temporarily practice public accountancy in
7 this state in accordance with section 13 of this act.

8 Sec. 3. Section 1-109, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 1-109 (1) In December of each year, the board shall ~~have~~
11 ~~printed and published~~ make available for public distribution an
12 annual register containing the names, arranged alphabetically by
13 classifications, of all persons holding permits, the names of the
14 members of the board, and such other matters as may be deemed
15 proper by the board. ~~Copies of the~~ The register shall be ~~mailed~~
16 made available to each permitholder.

17 (2) The board shall employ an executive director,
18 additional personnel, and any other assistance as it may require
19 for the performance of its duties. Unless otherwise directed by
20 the board, the executive director shall keep a record of all
21 proceedings, transactions, and official acts of the board, be
22 custodian of all the records of the board, and perform such other
23 duties as the board may require.

24 Sec. 4. Section 1-110, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 1-110 Each member of the board shall be paid one hundred
2 dollars for each day or portion thereof spent in the discharge of
3 his or her official duties and shall be reimbursed for his or her
4 actual and necessary expenses incurred in the discharge of his or
5 her official duties as provided in sections 81-1174 to 81-1177.
6 Such compensation and expenses shall be paid from the Certified
7 Public Accountants Fund.

8 Sec. 5. Section 1-111, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 1-111 (1) All fees collected under the Public Accountancy
11 Act and all costs collected under subdivision (8) of section 1-148
12 shall be remitted by the board to the State Treasurer for credit
13 to the Certified Public Accountants Fund which is hereby created.
14 Such fund shall, if and when specifically appropriated by the
15 Legislature during any biennium for that purpose, be paid out from
16 time to time by the State Treasurer upon warrants drawn by the
17 Director of Administrative Services on vouchers approved by the
18 board, and such board and expense thereof shall not be supported or
19 paid from any other fund of the state. Any money in the Certified
20 Public Accountants Fund available for investment shall be invested
21 by the state investment officer pursuant to the Nebraska Capital
22 Expansion Act and the Nebraska State Funds Investment Act.

23 (2) ~~All~~ The board shall remit civil penalties collected
24 under subdivision (5) of section 1-148 ~~shall be remitted by the~~
25 ~~board~~ to the State Treasurer for ~~credit to the permanent school~~

1 ~~fund.~~ distribution in accordance with Article VII, section 5, of
2 the Constitution of Nebraska.

3 Sec. 6. Section 1-114, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 1-114 (1) Prior to January 1, 1998, the board shall issue
6 a certificate of certified public accountant to any person (a) who
7 is a resident of this state or has a place of business therein
8 or, as an employee, is regularly employed therein, (b) who has
9 graduated from a college or university of recognized standing, and
10 (c) who has passed a written examination in accounting, auditing,
11 and such other related subjects as the board determines to be
12 appropriate.

13 (2) On and after January 1, 1998, the board shall issue a
14 certificate of ~~as a~~ certified public accountant to any person (a)
15 who is a resident of this state or has a place of business in this
16 state or, as an employee, is regularly employed in this state, and
17 (b) who has passed an examination in accounting, auditing, and such
18 other related subjects as the board determines to be appropriate, and
19 and (c) who has completed the educational requirements specified in
20 section 1-116.

21 Sec. 7. Section 1-116, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 1-116 ~~(1)~~ Prior to January 1, 1998, a person shall be
24 eligible to take the examination described in section 1-114 if
25 he or she meets the requirements of subdivision (1)(a) of section

1 1-114. A person who takes the examination prior to January 1, 1998,
2 remains eligible to take any examination held by the board on or
3 before December 31, 2000, for a maximum of six sittings.

4 ~~(2) Except as otherwise provided in this subsection, any~~
5 Any person making initial application on or after January 1, 1998,
6 shall be eligible to take the examination described in section
7 1-114 shall be eligible to take the examination if he or she
8 has completed at least one hundred fifty semester hours or two
9 hundred twenty-five quarter hours of postsecondary academic credit
10 and has earned a baccalaureate or higher degree from a college or
11 university accredited by the North Central Association of Colleges
12 and Universities or a similar agency as determined to be acceptable
13 by the board. The person shall demonstrate that accounting,
14 auditing, business, and other subjects at the appropriate academic
15 level as required by the board are included within the required
16 hours of postsecondary academic credit. A person who expects to
17 complete the postsecondary academic credit and earn the degree as
18 required by this ~~subsection~~ section within sixty days following
19 when the examination is held shall be eligible to take such
20 examination, but such person shall not receive any credit for
21 such examination unless evidence satisfactory to the board showing
22 that such person has completed the postsecondary academic credit
23 and earned the degree as required by this ~~subsection~~ section
24 is received by the board within ninety days following when the
25 examination is held. The board shall not prescribe the specific

1 curricula of colleges or universities. If the applicant is an
2 individual, the application shall include the applicant's social
3 security number.

4 Sec. 8. Section 1-118, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 1-118 (1) The board may by rule and regulation prescribe
7 the terms and conditions under which a person who does not pass the
8 examination in one sitting may be reexamined. The board may also
9 provide by rule and regulation for a reasonable waiting period for
10 reexamination.

11 ~~(2) Any person who is eligible to take the examination~~
12 ~~under subsection (1) of section 1-116 and passes the examination~~
13 ~~in one or more of the subjects may be reexamined in the remaining~~
14 ~~subjects after January 1, 1998, without meeting the requirements~~
15 ~~of subsection (2) of section 1-116 subject to the rules and~~
16 ~~regulations of the board.~~

17 ~~(3) (2)~~ A person shall be entitled to any number
18 of reexaminations under section 1-114 subject to the rules and
19 regulations of the board.

20 Sec. 9. Section 1-119, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 1-119 The board shall charge a fee as established by the
23 board ~~not to exceed three hundred dollars on and after March 4,~~
24 ~~2003, and prior to January 1, 2004, and not to exceed two hundred~~
25 ~~dollars on and after January 1, 2004, for the initial examination~~

1 provided for ~~in section 1-114.~~ under the Public Accountancy Act.

2 An applicant for the examination may be required to pay additional
3 fees as charged by and remitted or paid to a third party for
4 administering the examination, if required by the board.

5 Sec. 10. Section 1-120, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 1-120 The board shall charge fees as established by
8 the board for reexaminations under ~~section 1-114.~~ the Public
9 Accountancy Act. Such fees shall not exceed ~~seventy-five dollars~~
10 ~~on and after March 4, 2003,~~ and prior to January 1, 2004, and
11 shall not exceed fifty dollars ~~on and after January 1, 2004,~~ for
12 each subject in which a person is reexamined. An applicant for the
13 reexamination may be required to pay additional fees as charged
14 by and remitted or paid to a third party for administering the
15 reexamination, if required by the board.

16 Sec. 11. Section 1-122, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 1-122 ~~(1)~~ Any person who has been issued a certificate as
19 a certified public accountant and who holds a permit issued under
20 subdivision (1)(a) of section 1-136, which is in full force and
21 effect, and any person who is classified as inactive under section
22 1-136, shall be styled and known as a certified public accountant
23 and may also use the abbreviation C.P.A. The board shall maintain a
24 list of active certified public accountants.

25 ~~(2) Any person who may be known as a certified public~~

1 ~~accountant may also be known as a public accountant.~~

2 Sec. 12. (1) A person who does not hold a certificate as
3 a certified public accountant or a permit issued under subdivision
4 (1)(a) of section 1-136 and who possesses an active permit,
5 certificate, or license which allows the person to engage in the
6 practice of public accountancy as a certified public accountant in
7 another state and whose principal place of business is outside this
8 state shall have all the practice privileges of a certified public
9 accountant who holds a permit issued under subdivision (1)(a)
10 of section 1-136, including the use of the title or designation
11 certified public accountant or C.P.A., without the need to hold
12 a certificate or a permit issued under subdivision (1)(a) of
13 section 1-136, or to notify or register with the board or pay any
14 fee. However, a person is not eligible to exercise the practice
15 privilege afforded under this section if the person has a permit,
16 certificate, or license under current suspension or revocation for
17 reasons other than nonpayment of fees or failure to comply with
18 continuing professional educational requirements in another state.

19 (2) Any person of another state exercising the practice
20 privilege afforded under this section and any partnership, limited
21 liability company, or other allowed entity of certified public
22 accountants which employ that person hereby simultaneously consent,
23 as a condition of the exercise of the practice privilege:

24 (a) To the personal and subject-matter jurisdiction and
25 disciplinary authority of the board;

1 (b) To comply with the Public Accountancy Act and the
2 rules and regulations adopted and promulgated under the act;

3 (c) That in the event the authorization to engage in
4 the practice of public accountancy in the state of the person's
5 principal place of business is no longer valid, the person will
6 cease offering or rendering professional services in this state
7 individually and on behalf of the person's partnership, limited
8 liability company, or other allowed entity of certified public
9 accountants; and

10 (d) To the appointment of the state entity which issued
11 the person's authorization to engage in the practice of public
12 accountancy as the person's agent upon whom process may be served
13 in any action or proceeding by the board against the person.

14 (3) The practice privilege afforded under this section
15 or any other section shall not be interpreted to prevent any
16 governmental body from requiring that public accounting services
17 performed for a governmental body or for an entity regulated by a
18 governmental body be performed by a person or firm holding a permit
19 issued under section 1-136.

20 (4) Any person who exercises the practice privilege
21 afforded under this section and who, for any entity with its home
22 office in this state, performs attestation services, may only do so
23 through a firm or an affiliated entity which holds a permit issued
24 under section 1-136.

25 Sec. 13. (1) The board may, in its discretion, grant a

1 person who holds a certificate, degree, or license in a foreign
2 country constituting a recognized qualification for the practice
3 of public accountancy in such country, and who does not hold a
4 certificate or permit issued by this state or any other state
5 and whose principal place of business is outside this state, the
6 privilege to temporarily practice in this state on professional
7 business incident to his or her regular practice outside this
8 state, if such privilege to temporarily practice is conducted in
9 conformity with the rules and regulations of the board.

10 (2) Any person of another country exercising the
11 temporary practice privilege granted under this section and any
12 partnership, limited liability company, or other allowed entity
13 of certified public accountants which employ that person hereby
14 simultaneously consent, as a condition of the grant of the
15 temporary practice privilege:

16 (a) To the personal and subject-matter jurisdiction and
17 disciplinary authority of the board;

18 (b) To comply with the Public Accountancy Act and the
19 rules and regulations adopted and promulgated under the act;

20 (c) That in the event the authorization to engage in
21 the practice of public accountancy in the country of the person's
22 principal place of business is no longer valid, the person will
23 cease offering or rendering professional services in this state
24 individually and on behalf of the person's partnership, limited
25 liability company, or other allowed entity of certified public

1 accountants; and

2 (d) To the appointment of the board as his or her agent
3 upon whom process may be served in any action or proceeding by the
4 board against the person.

5 (3) The temporary practice privilege afforded under
6 this section or any other section shall not be interpreted to
7 prevent any governmental body from requiring that public accounting
8 services performed for a governmental body or for an entity
9 regulated by a governmental body be performed by a person or firm
10 who holds a permit issued under section 1-136.

11 (4) Any person who has been granted the temporary
12 practice privilege afforded under this section and who, for any
13 entity with its home office in this state, performs attestation
14 services, may only do so through a firm or affiliated entity which
15 holds a permit issued under section 1-136.

16 (5) Any person who has been granted the temporary
17 practice privilege afforded under this section shall use only
18 the title or designation under which he or she is generally known
19 in his or her own country, followed by the name of his or her
20 foreign country.

21 (6) The board shall charge each person who has been
22 granted the temporary practice privilege afforded under this
23 section a fee as established by the board not to exceed fifty
24 dollars.

25 Sec. 14. Section 1-126, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 1-126 A partnership or limited liability company engaged
3 in this state in the practice of public accountancy may register
4 with the board as a partnership or limited liability company
5 of certified public accountants if it meets the following
6 requirements:

7 (1) At least one partner of the partnership or member
8 of the limited liability company shall be a certified public
9 accountant of this state in good standing;

10 (2) Each partner of the partnership who is a certified
11 public accountant or member of the limited liability company who
12 is a certified public accountant personally engaged within this
13 state in the practice of public accountancy as a partner or member
14 thereof shall be a certified public accountant of this state in
15 good standing;

16 (3) Each partner of the partnership who is a certified
17 public accountant or member of the limited liability company who
18 is a certified public accountant shall be a certified public
19 accountant of some state in good standing; and

20 (4) Each resident manager in charge of an office of the
21 partnership or limited liability company in this state shall be a
22 certified public accountant of this state in good standing.

23 An application for such registration shall be made upon
24 the affidavit of a general partner of such partnership or a
25 member of such limited liability company who is a certified public

1 accountant of this state in good standing. The board shall in each
2 case determine whether the applicant is eligible for registration.

3 A partnership or limited liability company which is
4 so registered and which holds a permit issued under subdivision
5 ~~(1)(e)~~ (1)(b) of section 1-136 may use the words certified public
6 accountants or the abbreviation C.P.A.'s in connection with its
7 partnership or limited liability company name.

8 Notification shall be given to the board, pursuant
9 to board rules and regulations, regarding the admission to or
10 withdrawal of a partner from any partnership or a member from any
11 limited liability company so registered.

12 Sec. 15. Section 1-134, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 1-134 A corporation organized pursuant to the Nebraska
15 Professional Corporation Act which, ~~on September 20, 1957,~~ had has
16 a place of business in this state, ~~was permitted to engage in~~
17 ~~the practice of public accountancy in this state,~~ was actually
18 ~~so engaged,~~ and which at that time had fully complied with all
19 laws of this state relating to it may register with the board
20 as a corporation engaged in the practice of public accountancy.
21 ~~on or before January 1, 1958.~~ Registration also may be made by
22 any corporation organized pursuant to the Nebraska Professional
23 Corporation Act. Application for such registration must be made
24 upon the affidavit of an officer of such corporation. The board
25 shall in each case determine whether the applicant is eligible for

1 registration. A corporation which is so registered and which holds
2 a permit issued under subdivision ~~(1)(f)~~ (1)(c) of section 1-136
3 may practice public accountancy and, in that connection, may use
4 a corporate name which indicates, as a part of such name, that
5 it is engaged in such practice. ~~if it had such corporate name on~~
6 ~~September 20, 1957.~~

7 Sec. 16. Section 1-135, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 1-135 Each office established or maintained in this state
10 for the practice of public accountancy in this state by a certified
11 public accountant, by a partnership of certified public accountants
12 or a limited liability company of certified public accountants
13 registered under section 1-126, ~~by a public accountant registered~~
14 ~~under sections 1-128 to 1-130 as such sections existed on September~~
15 ~~20, 1957, by a partnership of public accountants or a limited~~
16 ~~liability company of public accountants registered under section~~
17 ~~1-133, by a foreign accountant registered under section 1-125, or~~
18 by a corporation registered under section 1-134 shall be registered
19 annually under the Public Accountancy Act with the board. The board
20 shall charge an annual fee for the registration of each office as
21 established by the board not to exceed one hundred dollars. The
22 board shall by rule and regulation prescribe the procedure to be
23 followed in effecting such registrations.

24 Each office shall be under the supervision of a manager
25 who holds a permit issued under section 1-136 which is in full

1 force and effect. Such manager may serve in such capacity at one
2 office only, with the exception of a manager who is a sole owner
3 of a firm or a sole proprietor, who may manage one additional
4 office only. Such manager shall be directly responsible for the
5 supervision and management of each office and may be subject to
6 disciplinary action for the actions of the person or firm or
7 any persons employed by each office of the person or firm within
8 the State of Nebraska which relate to the practice of public
9 accountancy.

10 Sec. 17. Section 1-136, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 1-136 (1) Permits to engage in the practice of public
13 accountancy in this state shall be issued by the board to (a)
14 persons who are holders of the certificate of certified public
15 accountant issued under sections 1-114 to 1-124 and who have
16 met the experience requirements of section 1-136.02, (b) ~~foreign~~
17 ~~accountants registered under section 1-125,~~ (c) partnerships
18 and limited liability companies of certified public accountants
19 registered under section 1-126, (d) ~~persons registered as public~~
20 ~~accountants under sections 1-128 to 1-130 as such sections existed~~
21 ~~on September 20, 1957,~~ (e) ~~partnerships and limited liability~~
22 ~~companies of public accountants registered under section 1-133,~~
23 and (f) (c) corporations registered under section 1-134 as long
24 as all offices of such certificate holders or registrants in this
25 state for the practice of public accountancy are maintained and

1 registered as required under section 1-135.

2 (2) (a) Except as provided in the case of permits subject
3 to subdivision (2) (b) of this section, the board shall charge an
4 annual permit fee as established by the board not to exceed one
5 hundred fifty dollars. All permits subject to this subdivision
6 shall expire on June 30 of each year and may be renewed annually
7 for a period of one year by certificate holders and registrants in
8 good standing upon payment of an annual renewal fee as established
9 by the board not to exceed one hundred fifty dollars. The board may
10 prorate the fee for any permit subject to this subdivision issued
11 for less than one year.

12 (b) The board shall charge a biennial permit fee as
13 established by the board not to exceed three hundred dollars for
14 permits issued under ~~subdivisions~~ subdivision (1) (a) ~~7~~ ~~(1) (b)~~ ~~7~~ and
15 ~~(1) (d)~~ of this section. All permits subject to this subdivision
16 shall expire on June 30 of the first calendar year after the
17 calendar year of issuance in which the age of the certificate
18 holder or the registrant becomes divisible by two, and may be
19 renewed biennially for a period of two years by certificate holders
20 and registrants in good standing upon payment of a biennial renewal
21 fee as established by the board not to exceed three hundred
22 dollars. The board may prorate the fee for any permit subject to
23 this subdivision issued for less than two years.

24 (3) Failure of a certificate holder or registrant to
25 apply for a permit within (a) three years from the expiration date

1 of the permit last obtained or renewed or (b) three years from the
2 date upon which the certificate holder or registrant was issued a
3 certificate or registration if no permit was ever issued to such
4 person shall deprive him or her of the right to issuance or renewal
5 of a permit unless the board, in its discretion, determines such
6 failure to have been excusable. In such case the renewal fee or
7 the fee for the issuance of the original permit, as the case may
8 be, shall be such amount as established by the board not to exceed
9 three hundred dollars.

10 (4) Any certificate holder or registrant who has not
11 lost his or her right to issuance or renewal of a permit and
12 who is not actively engaged in the practice of public accountancy
13 in this state may file a written application with the board to
14 be classified as inactive. A person so classified shall not be
15 issued a permit or be deemed the holder of a permit but shall be
16 carried upon an inactive roll to be maintained by the board upon
17 the payment of an inactive fee as established by the board not to
18 exceed fifty percent of the fee charged persons actively engaged
19 in the practice of public accountancy as provided in this section.
20 A person so classified shall not be deprived of the right to the
21 issuance or renewal of a permit and may, upon application to the
22 board and upon payment of the current permit fee, be issued a
23 current permit.

24 Sec. 18. Section 1-136.01, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 1-136.01 (1) As a condition for renewal of a permit
2 issued under subdivision (1)(a) ~~(1)(b)~~ or ~~(1)(d)~~ of section
3 1-136, the board, pursuant to rules and regulations adopted
4 and promulgated by the board, may require permit holders to
5 furnish evidence of participation in professional development in
6 accounting, auditing, or related areas for fifteen days within
7 the preceding three calendar years or, in order to facilitate the
8 issuance of biennial permits as provided in subdivision (2)(b)
9 of section 1-136, for ten days within the preceding two calendar
10 years. The board may adopt and promulgate rules and regulations
11 regarding such professional development.

12 (2) In determining compliance with the professional
13 development requirement, the board may include credits earned
14 during the current calendar year in addition to those earned in
15 the preceding calendar years in which professional development is
16 required under subsection (1) of this section. If such credits are
17 included they shall not count toward the next succeeding permit
18 renewal requirement.

19 Sec. 19. Section 1-136.02, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 1-136.02 (1) The board shall issue a permit under
22 subdivision (1)(a) of section 1-136 to a holder of a certificate as
23 a certified public accountant when such holder has had:

24 (a) Two years of public accounting experience
25 satisfactory to the board, in any state, (i) in practice as

1 a certified public accountant, ~~or a public accountant,~~ (ii) in
2 employment as a staff accountant by anyone engaging in the practice
3 of public accountancy, or (iii) in any combination of either of
4 such types of experience;

5 (b) Three years of auditing experience satisfactory to
6 the board in the office of the Auditor of Public Accounts or in the
7 Department of Revenue; or

8 (c) Experience gained through employment by the federal
9 government as a special agent or an internal revenue agent in the
10 Internal Revenue Service, a degree from a college or university
11 of recognized standing, and certification by a District Director
12 of Internal Revenue that such person has had at least three and
13 one-half years of field experience as a special agent or internal
14 revenue agent.

15 (2) The board shall issue a permit under subdivision
16 (1)(a) of section 1-136 to a holder of a reciprocal certificate
17 issued under section 1-124 upon a showing that:

18 (a) He or she meets all current requirements in this
19 state for issuance of a permit at the time the application is made;
20 and

21 (b) At the time of the application for a permit the
22 applicant, within the ten years immediately preceding application,
23 has had at least two years' experience in the practice of public
24 accountancy as a sole proprietor or as a staff accountant.

25 Sec. 20. Section 1-136.04, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 1-136.04 Any person who has taken the examination
3 described in section 1-114 ~~prior to January 1, 1978,~~ may qualify
4 for issuance of a permit under subdivision (1)(a) of section
5 1-136 by (1) having four years of public accounting experience
6 satisfactory to the board in any state in practice as a certified
7 public accountant or as a public accountant or in any state in
8 employment as a staff accountant by anyone engaging in the practice
9 of public accountancy, or any combination of either of such types
10 of experience, or (2) having five years of auditing experience
11 satisfactory to the board in the office of the Auditor of Public
12 Accounts or in the Department of Revenue, in lieu of being a
13 graduate from a college or university of recognized standing.

14 Sec. 21. Section 1-137, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 1-137 After notice and hearing as provided in sections
17 1-140 to 1-149, the board may take disciplinary action as provided
18 in section 1-148 for any one or any combination of the following
19 causes:

20 (1) Fraud or deceit in obtaining a certificate as a
21 certified public accountant or the practice privilege or temporary
22 practice privilege, registration, or a permit under the Public
23 Accountancy Act;

24 (2) Dishonesty, fraud, or gross negligence in the
25 practice of public accountancy;

1 (3) Violation of any of the provisions of sections 1-151
2 to 1-161;

3 (4) Violation of a rule of professional conduct adopted
4 and promulgated by the board under the authority granted by the
5 act;

6 (5) Conviction of a felony under the laws of any state or
7 of the United States;

8 (6) Conviction of any crime, an element of which is
9 dishonesty or fraud, under the laws of any state or of the United
10 States;

11 (7) Cancellation, revocation, suspension, or refusal to
12 renew authority to practice as a certified public accountant or
13 a public accountant in any other state, for any cause other than
14 failure to pay a registration fee in such other state;

15 (8) Suspension or revocation of the right to practice
16 before any state or federal agency; or

17 (9) Failure of a certificate holder or registrant to
18 obtain a permit issued under section 1-136, within either (a) three
19 years from the expiration date of the permit last obtained or
20 renewed by the certificate holder or registrant or (b) three years
21 from the date upon which the certificate holder or registrant was
22 issued his or her certificate or registration if no permit was ever
23 issued to him or her, unless under section 1-136 such failure was
24 excused by the board pursuant to section 1-136.

25 Sec. 22. Section 1-138, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 1-138 After notice and hearing as provided in sections
3 1-140 to 1-149, the board shall revoke the registration and permit
4 or the practice privilege of a partnership or a limited liability
5 company of certified public accountants ~~or a partnership or a~~
6 ~~limited liability company of public accountants~~ if at any time it
7 does not have all the qualifications prescribed by section 1-126 or
8 ~~1-133, respectively,~~ sections 12 and 13 of this act, under which
9 it qualified for registration or for the practice privilege or
10 temporary practice privilege, respectively.

11 After notice and hearing as provided in sections 1-140
12 to 1-149, the board may take disciplinary action as provided in
13 section 1-148 for any of the causes enumerated in section 1-137 or
14 for any of the following additional causes:

15 (1) The revocation or suspension of the certificate or
16 registration or the revocation or suspension or refusal to renew
17 the permit of any partner or member; or

18 (2) The cancellation, revocation, suspension, or refusal
19 to renew the authority of the partnership or any partner thereof
20 or the limited liability company or any member thereof to practice
21 public accountancy in any other state for any cause other than
22 failure to pay a registration fee in such other state.

23 Sec. 23. A holder of a certificate as a certified
24 public accountant or a permit issued under subdivision (1)(a) of
25 section 1-136 who offers or renders services or uses his or her

1 C.P.A. title or designation in another state shall be subject to
2 disciplinary action in this state for such an act committed in
3 either state for which the certificate holder or permitholder would
4 be subject to discipline for such an act committed in this state.
5 The board shall investigate any complaint made by the board of
6 accountancy or equivalent regulatory authority of another state.

7 Sec. 24. Section 1-148, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 1-148 Upon the completion of any hearing, the board,
10 by majority vote, shall have the authority through entry of a
11 written order to take in its discretion any or all of the following
12 actions:

13 (1) Issuance of censure or reprimand;

14 (2) Suspension of judgment;

15 (3) Placement of the permitholder, certificate holder,
16 ~~or~~ registrant, or person exercising the practice privilege or the
17 temporary practice privilege on probation;

18 (4) Placement of a limitation or limitations on the
19 permit, certificate, or registration and upon the right of
20 the permitholder, certificate holder, ~~or~~ registrant, or person
21 exercising the practice privilege or the temporary practice
22 privilege to practice the profession to such extent, scope, or type
23 of practice for such time and under such conditions as are found
24 necessary and proper;

25 (5) Imposition of a civil penalty not to exceed ten

1 thousand dollars, except that the board shall not impose a
 2 civil penalty under this subdivision for any cause enumerated
 3 in subdivisions (5) through (9) of section 1-137 and subdivisions
 4 (1) and (2) of section 1-138. The amount of the penalty shall be
 5 based on the severity of the violation;

6 (6) Entrance of an order of suspension of the permit,
 7 certificate, ~~or~~ registration, or practice privilege or temporary
 8 practice privilege;

9 (7) Entrance of an order of revocation of the permit,
 10 certificate, ~~or~~ registration, or practice privilege or temporary
 11 practice privilege;

12 (8) Imposition of costs as in ordinary civil actions in
 13 the district court, which may include attorney and hearing officer
 14 fees incurred by the board and the expenses of any investigation
 15 undertaken by the board; or

16 (9) Dismissal of the action.

17 Sec. 25. Section 1-151, Reissue Revised Statutes of
 18 Nebraska, is amended to read:

19 1-151 ~~(1)~~ No person shall assume or use the title or
 20 designation certified public accountant or the abbreviation C.P.A.
 21 or any other title, designation, words, letters, abbreviation,
 22 sign, card, or device tending to indicate that such person
 23 is a certified public accountant unless such person ~~(a)~~ (1)
 24 is classified as inactive under section 1-136 or ~~(b)~~ (2) has
 25 been issued a certificate as a certified public accountant under

1 sections 1-114 to 1-124 and holds a permit issued under subdivision
2 (1) (a) of section 1-136 which is not revoked or suspended and all
3 of such person's offices in this state for the practice of public
4 accountancy are maintained and registered as required under section
5 1-135.

6 ~~(2) A foreign accountant who is registered under section~~
7 ~~1-125 and who holds a permit issued under subdivision (1)(b) of~~
8 ~~section 1-136 which is not revoked or suspended may use the title~~
9 ~~under which he or she is generally known in his or her country,~~
10 ~~followed by the name of the country from which he or she received~~
11 ~~his or her certificate, license, or degree.~~

12 Sec. 26. Section 1-152, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 1-152 No partnership or limited liability company shall
15 assume or use the title or designation certified public accountant
16 or public accountant or the abbreviation C.P.A. or any other
17 title, designation, words, letters, abbreviation, sign, card,
18 or device tending to indicate that such partnership or limited
19 liability company is composed of certified public accountants
20 unless such partnership or limited liability company is registered
21 as a partnership of certified public accountants or a limited
22 liability company of certified public accountants under section
23 1-126 and holds a permit issued under subdivision ~~(1)(e)~~ (1)(b)
24 of section 1-136 which is not revoked or suspended and all of
25 such partnership's or limited liability company's offices in this

1 state for the practice of public accountancy are maintained and
2 registered as required under section 1-135.

3 Sec. 27. Section 1-155, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 1-155 ~~(1)~~ ~~No~~ Except as otherwise provided in this
6 section, no person, partnership, or limited liability company shall
7 assume or use the title or designation certified accountant, public
8 accountant, chartered accountant, enrolled accountant, licensed
9 accountant, or registered accountant or any other title or
10 designation likely to be confused with certified public accountant
11 ~~or public accountant~~ or any of the abbreviations C.A., P.A., E.A.,
12 R.A., or L.A. or similar abbreviations likely to be confused with
13 C.P.A. No person shall assume or use the title or designation
14 enrolled agent or E.A. except a person so designated by the
15 Internal Revenue Service. Any person who holds a permit issued
16 under section 1-136 which is not revoked or suspended and all of
17 whose offices in this state for the practice of public accountancy
18 are maintained and registered as required under section 1-135 may
19 hold himself or herself out to the public as an accountant or
20 auditor.

21 ~~(2) A foreign accountant registered under section 1-125,~~
22 ~~who holds a permit issued under subdivision (1)(b) of section 1-136~~
23 ~~which is not revoked or suspended and all of whose offices in this~~
24 ~~state for the practice of public accountancy are maintained and~~
25 ~~registered as required under section 1-135 may use the title under~~

1 which he or she is generally known in his or her country, followed
 2 by the name of the country from which he or she received his or her
 3 certificate, license, or degree.

4 Sec. 28. Section 1-156, Reissue Revised Statutes of
 5 Nebraska, is amended to read:

6 1-156 No corporation shall assume or use the title or
 7 designation certified public accountant or public accountant nor
 8 shall any corporation assume or use the title or designation
 9 certified accountant, chartered accountant, enrolled accountant,
 10 licensed accountant, registered accountant, or any other title or
 11 designation likely to be confused with certified public accountant
 12 ~~or public accountant~~ or any of the abbreviations C.P.A., P.A.,
 13 C.A., E.A., R.A., L.A., or similar abbreviations likely to be
 14 confused with C.P.A., except that a corporation which is registered
 15 under section 1-134 and holds a permit issued under subdivision
 16 ~~(1)(f)~~ (1)(c) of section 1-136 which is not revoked or suspended
 17 and all of such corporation's offices in this state for the
 18 practice of public accountancy are maintained and registered as
 19 required under section 1-135, may use the words ~~public accountant,~~
 20 accountant, auditor, and other appropriate words to indicate that
 21 it is engaged in the practice of public accountancy but may not
 22 use the title or designation certified public accountant, public
 23 accountant, certified accountant, chartered accountant, enrolled
 24 accountant, licensed accountant, registered accountant, or any
 25 other title or designation likely to be confused with certified

1 public accountant or any of the abbreviations C.P.A., C.A., E.A.,
2 L.A., R.A., or similar abbreviations likely to be confused with
3 C.P.A.

4 Sec. 29. Section 1-157, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 1-157 No person shall sign or affix his or her name
7 or any trade or assumed name used by him or her in his or her
8 profession or business with any wording indicating that he or she
9 is an accountant or auditor or with any wording indicating that
10 he or she has expert knowledge in accounting or auditing to any
11 accounting or financial statement or to any opinion on, report
12 on, or certificate to any accounting or financial statement unless
13 he or she holds a permit issued under subdivision (1)(a), ~~(1)(b)~~,
14 ~~or (1)(d)~~ of section 1-136 which is not revoked or suspended
15 and all of his or her offices in this state for the practice
16 of public accountancy are maintained and registered as required
17 under section 1-135. This section shall not prohibit any officer,
18 employee, partner, limited liability company member, or principal
19 of any organization from affixing his or her signature to any
20 statement or report in reference to the financial affairs of the
21 organization with any wording designating the position, title, or
22 office which he or she holds in the organization, nor shall this
23 section prohibit any act of a public official or public employee in
24 the performance of his or her duties as such.

25 Sec. 30. Section 1-158, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 1-158 No person shall sign or affix a partnership
3 or limited liability company name, with any wording indicating
4 that it is a partnership or limited liability company composed
5 of accountants, auditors, or persons having expert knowledge in
6 accounting or auditing, to any accounting or financial statement,
7 or to any report on or certificate to any accounting or financial
8 statement, unless the partnership or limited liability company
9 holds a permit issued under subdivision ~~(1)(e)~~ ~~or~~ ~~(1)(e)~~ (1)(b)
10 of section 1-136 which is not revoked or suspended and all of its
11 offices in this state for the practice of public accountancy are
12 maintained and registered as required under section 1-135.

13 Sec. 31. Section 1-159, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 1-159 No person shall sign or affix a corporate name with
16 any wording indicating that it is a corporation performing services
17 as accountants or auditors or composed of accountants or auditors
18 or persons having expert knowledge in accounting or auditing, to
19 any accounting or financial statement, or to any report on or
20 certificate to any accounting or financial statement, except that
21 a corporation which is registered under section 1-134 and holds
22 a permit issued under subdivision ~~(1)(f)~~ (1)(c) of section 1-136
23 which is not revoked or suspended may affix its corporate name
24 which it had on September 20, 1957, with the wording indicated
25 above.

1 Sec. 32. Section 1-161, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 1-161 No person shall assume or use the title or
4 designation certified public accountant or public accountant in
5 conjunction with names indicating or implying that there is a
6 partnership or a limited liability company or in conjunction with
7 the designation "and company" or "and Co." or a similar designation
8 if, in any such case, there is in fact no bona fide partnership or
9 limited liability company registered under section 1-126, ~~or 1-133,~~
10 ~~except that a sole proprietor or partnership lawfully using such~~
11 ~~title or designation in conjunction with such names or designation~~
12 ~~on September 20, 1957, may continue to do so if he, she, or it~~
13 ~~otherwise complies with the Public Accountancy Act.~~

14 Sec. 33. Section 1-162, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 1-162 Nothing contained in the Public Accountancy Act
17 shall prohibit any person not a certified public accountant
18 ~~or public accountant~~ from serving as an employee of, or an
19 assistant to, a certified public accountant, ~~public accountant,~~
20 or partnership or limited liability company of certified public
21 accountants ~~or public accountants~~ holding a permit issued under
22 section 1-136 or a foreign accountant ~~registered~~ exercising the
23 temporary practice privilege under section ~~1-125,~~ 13 of this
24 act, except that such employee or assistant shall not issue any
25 accounting or financial statement over his or her name.

1 Sec. 34. Section 1-162.01, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 1-162.01 Notwithstanding the Nebraska Professional
4 Corporation Act or the Public Accountancy Act or any other
5 provision of law inconsistent with this section, firms may have
6 persons as owners who are not certified public accountants ~~or~~
7 ~~public accountants~~ if the following conditions are met:

8 (1) Such persons shall not exceed forty-nine percent of
9 the total number of owners of such firm;

10 (2) Such persons shall not hold, in the aggregate, more
11 than forty-nine percent of such firm's equity capital or voting
12 rights or receive, in the aggregate, more than forty-nine percent
13 of such firm's profits or losses;

14 (3) Such persons shall not hold themselves out as
15 certified public accountants; ~~or public accountants;~~

16 (4) Such persons shall not hold themselves out to the
17 general public or to any client as an owner, partner, shareholder,
18 limited liability company member, director, officer, or other
19 official of the firm except in a manner specifically permitted by
20 the rules and regulations of the board;

21 (5) Such persons shall not have ultimate responsibility
22 for the performance of any audit, review, or compilation of
23 financial statements or other forms of attestation related to
24 financial information;

25 (6) Such persons shall not be owners of a firm engaged in

1 the practice of public accountancy without board approval if such
2 persons (a) have been convicted of any felony under the laws of any
3 state, of the United States, or of any other jurisdiction, (b) have
4 been convicted of any crime, an element of which is dishonesty or
5 fraud, under the laws of any state, of the United States, or of any
6 other jurisdiction, (c) have had their professional or vocational
7 licenses, if any, suspended or revoked by a licensing agency of any
8 state of the United States or of any other jurisdiction or such
9 persons have otherwise been the subject of other final disciplinary
10 action by any such agency, or (d) are in violation of any rule or
11 regulation regarding character or conduct adopted and promulgated
12 by the board relating to owners who are not certified public
13 ~~accountants or public~~ accountants; and

14 (7) Such persons, regardless of where located, shall
15 actively participate in the business of the firm.

16 The board shall adopt and promulgate rules and
17 regulations for purposes of interpretation and enforcement of
18 compliance with this section.

19 Sec. 35. Section 1-164.01, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 1-164.01 Nothing in the Public Accountancy Act or the
22 rules and regulations adopted and promulgated under the act shall
23 be construed to prohibit any person who does not hold a permit
24 issued under subdivision (1) (a), ~~(1) (b)~~, or ~~(1) (d)~~ of section 1-136
25 from preparing, compiling, or signing financial statements if an

1 accompanying report, letter, or other statement does not express an
2 opinion or other form of assurance as to the fairness, accuracy, or
3 reliability of such statements.

4 Sec. 36. Section 1-164.02, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 1-164.02 Nothing in the Public Accountancy Act or the
7 rules and regulations adopted and promulgated under the act shall
8 be construed to prohibit a person holding a certificate ~~of~~ as a
9 certified public accountant from forming a business partnership or
10 limited liability company with a person not holding a certificate
11 or permit.

12 Sec. 37. Section 1-167, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 1-167 The display or uttering by a person of a card,
15 sign, advertisement, or other printed, engraved, or written
16 instrument or device, bearing a person's name in conjunction with
17 the words certified public accountant or any abbreviation thereof
18 or public accountant or any abbreviation thereof shall be prima
19 facie evidence in any action brought under section 1-165 or 1-166
20 that the person whose name is so displayed caused or procured
21 the display or uttering of such card, sign, advertisement, or
22 other printed, engraved, or written instrument or device and that
23 such person is holding himself or herself out to be a certified
24 public accountant ~~or a public accountant~~ holding a permit issued
25 under section 1-136. In any such action evidence of the commission

1 of a single act prohibited by the Public Accountancy Act shall
2 be sufficient to justify an injunction or a conviction without
3 evidence of a general course of conduct.

4 Sec. 38. Section 1-168, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 1-168 All statements, records, schedules, working papers,
7 and memoranda made by a certified public accountant ~~or public~~
8 ~~accountant~~ incident to or in the course of professional service to
9 clients by such accountant, except reports submitted by a certified
10 public accountant ~~or public accountant~~ to a client, shall be and
11 remain the property of such accountant in the absence of an express
12 agreement between such accountant and the client to the contrary.
13 No such statement, record, schedule, working paper, or memorandum
14 shall be sold, transferred, or bequeathed, without the consent
15 of the client or his or her personal representative or assignee,
16 to anyone other than one or more surviving partners or limited
17 liability company members or new partners or limited liability
18 company members of such accountant.

19 Sec. 39. Section 1-170, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 1-170 Whenever any statute or rule or regulation adopted
22 and promulgated by authority of any statute requires that any
23 audit, report, financial statement, or other document for any
24 department, division, board, commission, agency, or officer
25 of this state be prepared by certified public accountants,

1 such requirement, except as provided in section 1-171, shall
 2 be construed to mean certified public accountants ~~or public~~
 3 ~~accountants~~ holding a permit issued under subdivision (1)(a) ~~or~~
 4 ~~(1)(d)~~ of section 1-136 or a person exercising the practice
 5 privilege or temporary practice privilege.

6 Sec. 40. Section 1-171, Reissue Revised Statutes of
 7 Nebraska, is amended to read:

8 1-171 Whenever any federal regulation requires any audit,
 9 report, financial statement, or other document to be prepared by a
 10 certified public accountant, such requirement shall be construed to
 11 mean a certified public accountant holding a permit issued under
 12 subdivision (1)(a) of section 1-136 or a person exercising the
 13 practice privilege or temporary practice privilege.

14 Sec. 41. This act becomes operative on September 1, 2010.

15 Sec. 42. Original sections 1-105, 1-106, 1-109, 1-110,
 16 1-111, 1-114, 1-116, 1-118, 1-119, 1-120, 1-122, 1-126, 1-134,
 17 1-135, 1-136, 1-136.01, 1-136.02, 1-136.04, 1-137, 1-138, 1-148,
 18 1-151, 1-152, 1-155, 1-156, 1-157, 1-158, 1-159, 1-161, 1-162,
 19 1-162.01, 1-164.01, 1-164.02, 1-167, 1-168, 1-170, and 1-171,
 20 Reissue Revised Statutes of Nebraska, are repealed.

21 Sec. 43. The following sections are outright repealed:
 22 Sections 1-123, 1-125, 1-133, 1-136.03, 1-153, 1-154, and 1-163,
 23 Reissue Revised Statutes of Nebraska.